



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2018

CORAM:

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.5809 of 2018

and

W.M.P.(MD) Nos.5670 and 5671 of 2018

M/s.Power Creating Zone (P) Ltd.,
regd. Office Sukkaliyur Check Post,
Loganayaki Valganaising Building
NH-7, Karur - 639 003.
rep. by its Managing Director
S.Karunanidhi

... Petitioner

-vs-

- 1.The Authorised Officer,
Syndicate Bank,
No.40, 80 Feet Road,
Karur - 639 002.
- 2.The Authorised Officer,
Syndicate Bank,
Regional Office,
No.80, Armenian Street,
Chennai - 600 001.
- 3.M/s.Morvi Exports,
rep. by its Partner,
S.R.Manickavasagam
- 4.Jai Kavitha

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent published in the Tamil daily "Dina Thanthi" dated 18.02.2018 calling for E-Auction sale of the secured assets of the 3rd respondent scheduled for 22.03.2018 between 11.00 AM to 12.00 Noon (with unlimited auto extension of 5 minutes till the conclusion of the auction) for the loan obtained by the 3rd respondent and quash the same and direct the 1st respondent to issue sale certificate to the petitioner and possession of the property to the petitioner as the petitioner is ready and willing to clear the dues of the 3rd respondent as the petitioner have already remitted Rs.7,05,00,000/- to the 1st respondent against the loan of the 3rd respondent.



For Petitioner : Mr.T.M.Madasamy

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

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Heard Mr.T.M.Madasamy, learned counsel appearing for the petitioner.

2.The petitioner, who is a third party to the proceedings, has filed this writ petition challenging the auction notification issued by the first respondent, bringing the properties owned by the third respondent for sale for recovery of the loan payable by the third respondent.

3.The petitioner appears to have entered into an agreement with the third respondent/borrower for purchase of the very same property and there were some understanding and monies were remitted to the first respondent bank. It is an admitted fact that the petitioner did not adhere to the terms and conditions of the one time settlement, which was approved by the first respondent bank, since the petitioner was ready and willing to clear the loan availed by the third respondent. Subsequently, the matter has gone before the Debt Recovery Tribunal and subsequently to the Debt Recovery Appellate Tribunal and the petitioner or the borrower have not complied with the conditional orders, therefore, the appeals were dismissed. When the first respondent bank has now issued the fresh sale notice, the petitioner is before this Court.

4.In our considered view, the contention advanced by the petitioner cannot be agitated in a writ petition, more so, on account of the past conduct of the petitioner. Therefore, the writ petition is not maintainable. Accordingly, this writ petition is dismissed. However, it is open to the petitioner to workout his remedy in accordance with the provisions of SARFAESI Act. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

1.The Authorised Officer, Syndicate Bank,
No.40, 80 Feet Road, Karur - 639 002.

2.The Authorised Officer, Syndicate Bank,
Regional Office, No.80, Armenian Street, Chennai - 600 001.

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RL/3C/2P/CVC/SAR1/4/4/2018

W.P.(MD) No.5809 of 2018

and

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20.03.2018